the shares of married daughters were to be held on the trusts of the settlements made by the testator upon their marriages. In the marriage settlement of A, a daughter who had reached twenty-one, the ultimate trust in default of her issue was to the testator. On A's death without issue, the residuary legatee under the testator's will claimed A's share under the will as being undisposed of. *Held*, that as the gift to A was absolute, her personal representatives are entitled on the failure of the trust to the testator. *In re Currie's Settlement*, 45 L. J. 53 (Eng., Ch. D., Jan. 14, 1910).

When an absolute legacy has subsequent limitations engrafted upon it, on the failure of such qualifications the absolute gift prevails. *Hancock* v. *Watson*, [1902] A. C. 14; *Sears* v. *Putnam*, 102 Mass. 5. But when the first gift is not absolute, a failure of any modifying clause throws that part of the legacy into the residue as undisposed of. *Lassence* v. *Tierney*, 1 Macn. & G. 551; *Re Richards*, 50 L. T. R. N. S. 22. In England, the cause of failure is immaterial — whether through remoteness, lapse, or the non-happening of an event. *Hancock* v. *Watson*, *supra; Mayer* v. *Townsend*, 3 Beav. 443. In this country, however, the rule seems confined to provisions void for perpetuity. *Graham* v. *Whitridge*, 99 Md. 248, 277; *Sears* v. *Putnam*, *supra*. Though the restrictions are usually in the same instrument, the rule is also followed when an absolute gift in a will is qualified by a subsequent codicil. *Norman* v. *Kynaston*, 3 De G., F. & J. 29; *The Security Co.* v. *Snow*, 70 Conn. 288. And the same principle is applied in the execution of powers where an absolute appointment is followed by limitations in excess of the power or void for perpetuity. *Churchill* v. *Churchill*, L. R. 5 Eq. 44; *Cooke* v. *Cooke*, 38 Ch. D. 202. The only difficulty is raised by the question of construction whether or not the first gift is absolute. If the words used are ambiguous, the testator's intent is to be gathered from the whole will; but once an absolute gift is spelled out, it remains unaffected by later expressions. *Lassence* v. *Tierney*, *supra; Hancock* v. *Watson*, *supra*.

LIBEL AND SLANDER — PLEADING AND PROOF — LIBEL WITHOUT INTENT. — A newspaper published an imaginary account of a supposedly fictitious character. The name used was that of the plaintiff, a prominent barrister of the locality, whose friends reasonably believed that he was the person referred to. The defendant did not intend to refer to the plaintiff, and had no intention of libelling any one. The plaintiff brought action for libel. *Held*, that he can recover. *Jones* v. *Hutton & Co.*, [1910] 1 A. C. 20. This case affirms the decision of the lower court commented on in 23 HARV. L. REV. 218.

MUNICIPAL CORPORATIONS — POLICE POWER AND REGULATIONS — ACTS PROHIBITED BY BOTH STATUTE AND ORDINANCE. — By its charter a city was given authority to make ordinances in the exercise of the police power. An ordinance was passed penalizing the sale or possession of cocaine. A state law, already in existence, imposed a smaller penalty for the sale of cocaine. *Held*, that there can be a conviction under the ordinance for the sale of cocaine. *Rossberg* v. *State*, 74 Atl. 581 (Md.).

When given authority by the legislature, a municipality can enact ordinances in the exercise of the police power. *Shafer* v. *Mumma*, 17 Md. 331. But regulations inconsistent with the general law of the state are void. *Hofmayer* v. *City of Blakely*, 116 Ga. 777. In applying this doctrine, text-writers, as well as courts, have adopted diverse rules. See MCQUILLIN, MUN. ORD., 783 *et seq.*; DILLON, MUN. CORP., 4 ed., 436; BEACH, PUB. CORP., 516 *et seq.* The view has been taken that an ordinance prohibiting an act criminal by statute or common law, is repugnant to the general law of the state, on the ground that it subjects an offender to double jeopardy or else deprives the state of jurisdiction. See *City of New York* v. *Alhambra Theater*, 118 N. Y. Supp. 471; *Southport* v. *Ogden*, 23 Conn. 128. Some states reject ordinances imposing a penalty or covering a scope

different from that of the statute. See *State* v. *Langston*, 88 N. C. 692; *Town of Petersburg* v. *Metzker*, 21 Ill. 205. And some regard a substantial duplication of a statute as bad. See *State* v. *McCoy*, 116 N. C. 1059; *In re Sic*, 73 Cal. 142. All of these notions seem ill-founded, for as a crime is the transgression of a law, it is conceivable that the same act should constitute two offenses, one against the state and another against the municipality. See *Moore* v. *People*, 14 How. (U. S.) 13; *Mayor* v. *Allaire*, 14 Ala. 400. But see *In re Sic, supra*. And the weight of authority is clearly in accord with the principal case. *City of New York* v. *Marco*, 109 N. Y. Supp. 58; *State* v. *Ludwig*, 21 Minn. 202.

PARTNERSHIP — RIGHTS, DUTIES, AND LIABILITIES OF PARTNERS INTER SE — ACTION ON NOTE AFTER DISSOLUTION OF FIRM. — A partnership advanced to the defendant, one of the partners, money in excess of his share of the profits. For the excess, the defendant gave a four months' note to the firm's order. Thereafter he sold his interest in the partnership to a copartner. Later the firm assigned all its assets to a trustee in liquidation. There had been no settlement between the partners within six months prior to the time when the note was given. *Held*, that the trustee cannot recover on the note at law. *Summerson* v. *Donovan*, 66 S. E. 822 (Va.).

As a general rule, members of a partnership cannot recover from one another at law on partnership claims, until there has been a final settlement. *Sadler* v. *Nixon*, 5 B. & A. 936; *Crow* v. *Green*, 111 Pa. St. 637. But *cf. Wilby* v. *Phinney*, 15 Mass. 116. For the law cannot well handle matters of account, and the defendant's share in the firm's surplus may be more than sufficient to exhaust any particular claim against him. See *Ivy* v. *Walker*, 58 Miss. 253. But *cf. Bennett* v. *Smith*, 40 Mich. 211. And this reason holds, even if the defendant has withdrawn from the firm, or it has been dissolved. *Burley* v. *Harris*, 8 N. H. 233; *Lang* v. *Oppenheim*, 96 Ind. 47. But if a partner makes with his copartners an express contract isolated from the regular course of the partnership business, he is liable on it at law. *Pardee* v. *Markle*, 111 Pa. St. 548; *Fox* v. *Frith*, 10 M. & W. 131. It would seem that setting a definite time to pay a note implies a promise to pay without going into an accounting: indeed, it has been said that such a promise should be implied merely from a partner's taking a loan. See *Bank of British North America* v. *Delafield*, 126 N. Y. 410, 415; LINDLEY, PARTNERSHIP, 7 ed., 596. But each case must depend on its own circumstances, and as the court in the principal case assumes that the note was a mere item in the partnership account, its decision is sound. See *Robson* v. *Curtis*, 1 Stark. 78; *Simrall* v. *O'Bannons*, 7 B. Mon. (Ky.) 608.

POLICE POWER — NATURE AND EXTENT — POLICE POWER OF THE STATES AND THE FEDERAL POWER OF TAXATION. — A statute in North Dakota provides that every person to whom a federal license is issued must publish notice of the same for three weeks in the newspapers, and after such period keep posted, along with the government tax receipt, an affidavit of the fact of publication and the obtaining of such license; and further, a duly authenticated copy of the tax receipt is required to be filed with a certain state officer whose duty it is to publish monthly lists of such licenses. *Held*, that the statute is unconstitutional as an unreasonable burden on the federal power of taxation. *State of North Dakota* v. *Hanson*, 30 Sup. Ct. 179. See NOTES, p. 465.

PROCESS — MANNER AND EFFECT OF SERVICE — PRIVILEGE OF NON-RESIDENT PARTIES AND WITNESSES. — A non-resident out on bail pending trial on a criminal charge returned to the jurisdiction for trial. Immediately after acquittal he was served with summons in a civil suit having no connection with the former charge. *Held*, that he is not privileged from service of process. *Netrograph Mfg. Co.* v. *Scrugham*, 197 N. Y. 377. See NOTES, p. 474.